

REMARKS

Claim 1 continues to be in the case.

Claim Rejections - 35 USC § 112

The Office Action states that claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action continues that this claim appears according to the Office Action to be a literal translation, and as such, contains errors of form, for example, a U.S. claims must be a single sentence. Applicant must check the entire claim and place it in proper U.S. form.

The present amendment provides a corrected form of claim 1 which is deemed to meet the requirements.

Claim Rejections - 35 USC § 103

The Office Action states that claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Eisner et al in view of Stearns and Curry.

Eisner shows an elastic protective covering 10 made of a thermoshrinkable material, column 9, lines 15-25. The specific tolerance used is an obvious matter of choice in the degree of a known parameter to one of ordinary skill in the art looking to find the best match for the intended instrument.

Applicant respectfully disagrees. Claim 1 as amended requires: "creating flat symmetrical hinged ends 4 at the elongated elastic sleeve 1 on a side of an inserting hole 3". Nothing is seen in Eisner which could be considered to be a symmetrical hinged end.

The Office Action continues that Eisner does not show an elliptical shape. Stearns shows a non-round cross section, see Fig. 2. It would be obvious to one of ordinary skill in the art to modify Eisner to include a non-round shape as shown by Stearns in order to better fit the intended instrument.

Applicant urges that there is nothing within the four corners of the Stearns reference which would suggest to a person of ordinary skill in the art to apply the shape of Stearns in other situations.

Fig. 3 of Stearns shows a hollow sleeve 50 and a diagnostic instrument body 72 following thereto. Applicant submits that this configuration is clearly different from the configuration of the applicant.

The Office Action further states that the specific shape used is an obvious matter of choice in shape to the skilled artisan looking to best match the shape of the intended instrument.

Applicant urges that the elliptical cross-section required according to claim 1 is clearly different from the cross-section of the sleeve 14 of the Eisner et al. reference.

The Office Action further concedes that the above combination does not show hinged ends. Curry shows hinged ends 9, 10, see Fig. 5.

The reference Curry teaches on page 1, in column 2, lines 90 through 96 that: "When the tongue 9 is folded inwardly, it is secured against the adjacent portion of the body 14 by a suitable adhesive and, likewise, the

opposite side edge portions of the flaps 11 are secured to one another and finally the tongues 10 are secured, the latter being overlapped at 15, see Fig. 3.”. Applicant respectfully submits that claim 1 does not call for any securing of a tongue by a suitable adhesive, as does the structure of the reference. applicant further submits that such securing would defeat the purposes of applicant’s invention.

The Office Action concludes that it would be further obvious to one of ordinary skill in the art to modify the above combination to include hinged ends as shown by Curry in order to better cover the instrument.

Applicant urges that including the hinged ends of Curry as taught by Curry with securing with an adhesive would clearly not give the structure required according to claim 1 and there would be no purpose accomplished with a combined structure of Eisner et al. and Curry having securing with an adhesive.

Specification

The specification, as with the claim, appears to be a literal translation and should be checked and place in proper U.S. form.

Applicant is presently checking the specification to present a proper U.S. form.

Drawings

The Office Action finds that this application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Applicant will provide formal drawings when the application is allowed.

Priority

The Office Action refers to the priority claimed and states that receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Applicant gratefully receives the acknowledgement of filed priority papers and relies on this statement with regard to applicant's claim for priority.

Conclusion

The Office Action concludes that the prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fife shows a heat shrinkable cover.

Applicants submit that the prior art made of record neither anticipates nor renders obvious the present invention.

Reconsideration of all outstanding rejections is respectfully requested.

If the Examiner should not be able to find a certain element of Applicants' claims in a search of the state of the art and such element is deemed by the Examiner to be necessary for forming a basis for a rejection, then the Examiner is invited to inform the Applicants of such element in order to allow the Applicants to fully meet their disclosure requirement in view of innumerable and hypothetical possibilities of combining references to allege obviousness of individual claims. In particular, in view of different

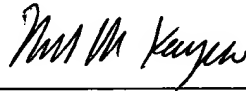
levels of familiarity of inventors with the information disclosure requirements of the United States Patent and Trademark Office developed in recent years and apparently still developing, which disclosure requirements are believed to be unique in the world, any help and suggestions regarding possible problems seen by the Examiner are welcome.

All claims as presently submitted are deemed to be in form for allowance and an early notice of allowance is earnestly solicited.

Respectfully submitted,

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